

# COMMITTEE REPORT

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## MR. PRESIDENT:

The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 52, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 8-6-7.7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) The Indiana department of transportation, whenever it orders the construction, installation, replacement, relocation, modernization, or improvement of automatic train-activated warning signals, may prescribe the division of the costs of the equipment, the installation of the equipment, the construction, and the operation and maintenance of the equipment between the railroad and the public. The share of the costs allocated to the public shall be paid with funds appropriated to the department for such purpose. In allotting the costs, IC 8-23-5-2 applies except as provided in subsections (b) through (c). **The cost of maintaining a train activated warning signal shall be reimbursed by the department as set forth in section 4.1 of this chapter.**

(b) Whenever a grade crossing not protected by automatic warning signals is ordered so protected, the department shall prescribe the division of the cost of the equipment, its installation, its operation and maintenance, and its construction between the railroad involved and the public, giving due regard to the net benefits received by the parties, and the causes creating the need for signals at the crossing. **The cost of maintaining a train activated warning signal shall be reimbursed by the department as set forth in section 4.1 of this chapter.**

(c) The physical work of constructing, installing, replacing, relocating, modernizing, or improving, and thereafter operating and maintaining automatic warning signals under order of the department shall be performed by the railroad involved. All orders of the department relating to the signals shall provide for allocation among the parties involved for the extraordinary costs of signal repair or replacement if they are damaged or destroyed by accident or external causes. **The cost of maintaining train activated warning signals shall be reimbursed by the department as set forth in section 4.1 of this chapter.**

(d) When the department orders the railroad to proceed with the construction, installation, relocation, modernization, or replacement of automatic signals at a grade crossing, the department shall order the railroad involved to complete the construction, installation, relocation, modernization, or replacement of signals not later than twelve (12) months after the date of the order.

(e) A railroad may request the department for additional time to complete the construction, installation, relocation, modernization, or replacement of signals specified in the department's order under subsection (d). The railroad shall submit the request for additional time in writing to the department. The request shall specifically set forth the basis for the railroad's need for additional time to complete the work. The department's decision to grant or deny a request for additional time is not subject to review under IC 4-21.5.

(f) If the railroad fails to complete the construction, installation, relocation, modernization, or replacement of signals by the date specified:

(1) in the department's order under subsection (d); or

(2) by the department if a request for additional time is granted by the department under subsection (e);

the department may assess a civil penalty against the railroad of not more than one thousand dollars (\$1000) for each day the construction, installation, relocation, modernization, or replacement of signals is late.

(g) All civil penalties collected under this section shall be deposited with the treasurer of state to be deposited by the treasurer of state in the railroad grade crossing fund created under IC 8-6-7.7-6.1.

SECTION 2. IC 8-6-7.7-4.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 4.1. (a) The department shall reimburse a railroad the cost of maintaining a train activated warning signal at a railroad grade crossing of a state highway. The department shall annually pay a railroad the lesser of:**

(1) the cost of maintaining the train activated warning signal; or

(2) one thousand dollars (\$1,000).

**(b) The department shall allocate funds sufficient to reimburse a railroad as set forth in subsection (a).**

**(c) The department shall adopt rules under IC 4-22-2 that establish the documentation that a railroad must submit to the department to receive reimbursement under this section.**

SECTION 3. IC 8-23-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 2. (a) If a highway or road is being constructed or reconstructed so that it crosses or intersects the existing tracks of a railroad at grade level at a point where no crossing previously existed, the department, county, city, or town under whose jurisdiction the crossing lies shall pay the cost of the construction of the new crossing, the approaches to the crossing, and the cost of the necessary protective or crossing warning signals. Except as provided in IC 8-6-7.7-4.1, after construction, the owner or lessee of the railroad shall maintain the crossing and protective or crossing**

warning signals and keep them in repair at the owner's or lessee's cost.

(b) If the owner or lessee of a railroad is constructing or reconstructing railroad tracks so that the tracks cross or intersect a highway or road at grade level at a point where no railroad crossing previously existed, the owner or lessee of the railroad shall pay the cost of the construction of the new crossing, the approaches to the crossing, and the cost of the necessary protective or crossing warning signals. **Except as provided in IC 8-6-7.7-4.1**, after construction, the owner or lessee of the railroad shall maintain the crossing and protective or crossing warning signals and keep them in repair at the owner's or lessee's cost.

(c) If a highway or road crosses or intersects the tracks of a railroad at grade level and the highway or road is reconstructed to alter the existing crossing or intersection by a change of grade, widening or changing the type of pavement, or by changing the angle of the intersection, the department, county, city, or town under whose jurisdiction the crossing lies shall pay the cost of the reconstruction of the crossing, the approaches to the crossing, and the cost of the necessary protective or crossing warning signals. **Except as provided in IC 8-6-7.7-4.1**, after reconstruction, the owner or lessee of the railroad shall maintain the crossing and protective or crossing warning signals and keep them in repair at the owner's or lessee's cost.

(d) If the owner or lessee of a railroad reconstructs or alters the tracks of a railroad that crosses or intersects a highway or road at grade level so that it is necessary to reconstruct or alter the crossing or intersection, the owner or lessee of the railroad shall pay the cost of the reconstruction or altering of the crossing, the approaches to the crossing, and the cost of the necessary protective or crossing warning

- III signals. **Except as provided in IC 8-6-7.7-4.1**, after construction, the
- III owner or lessee of the railroad shall maintain the crossing and
- III protective or crossing warning signals and keep them in repair at the
- III owner's or lessee's cost.

(Reference is to SB 52 as introduced.)

**and when so amended that said bill be reassigned to the Senate Committee on Transportation and Interstate Cooperation.**

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GARTON

Chairperson